

AE 1

DEPARTMENT OF HOMELAND SECURITY
U.S. Immigration and Customs Enforcement

CONSENT TO SEARCH

I, Angelo E. Hernandez, have been informed by U.S. Immigration and Customs Enforcement (ICE) Special Agent David M. Hoagland/Steve Allen of my right to refuse to consent to a search of my property, described as: (item, place, things to be searched, location, etc.)

Seneca 5 Aircraft Tail# N226LM

I have also been advised by ICE Special Agent David M. Hoagland that, if I voluntarily consent to a search of this property, anything discovered during this search may be used against me in any criminal, civil, or administrative proceedings.

I have decided to allow ICE Special Agents David M. Hoagland and Steve Allen to conduct a complete search of my _____ located at Washington, IA Airport.

These ICE Special Agents are authorized by me to take any letters, papers, materials, or other property which they may desire to examine.

I hereby voluntarily and intentionally consent to allow ICE to search my property. My consent is freely given and not the result of any promises, threats, coercion, or other intimidation. I have read the above statement and understand my rights.

Name (Please Print) Angelo E. Hernandez

Signature: X [Signature]

Date/Time: 19 Feb 2013 1620

Witnesses: David M. Hoagland

Stephen B. Allen Stephen B. Allen



U.S. Immigration
and Customs
Enforcement

STATEMENT OF RIGHTS

Before we ask you any questions, it is my duty to advise you of your rights.

You have the right to remain silent.

Anything you say can be used against you in court, or other proceedings.

You have the right to consult an attorney before making any statement or answering any questions.

You have the right to have an attorney present with you during questioning.

If you cannot afford an attorney, one will be appointed for you before any questioning, if you wish.

If you decide to answer questions now, you still have the right to stop the questioning at any time, or to stop the questioning for the purpose of consulting an attorney.

WAIVER

I have had the above statement of my rights read and explained to me and I fully understand these rights. I waive them freely and voluntarily, without threat or intimidation and without any promise of reward or immunity. I was taken into custody at _____ (time), on _____ (date), and have signed this document at 1:23 PM (time), on Feb. 19, 2013.

Angelo P. Efthimiatos
Print Name

Signature

WITNESS:

Steve B. Bell

DATE: 2-19-2013

WITNESS:

Officer Ron See present
SBA/BM

DATE: _____

A E 3.



U.S. Immigration
and Customs
Enforcement

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WAIVER

I have had the above statement of my rights read and explained to me and I fully understand these rights. I waive them freely and voluntarily, without threat or intimidation and without any promise of reward or immunity. I was taken into custody as 2-19-2013 (time), on 2-19-2013 (date), and have signed this document at 4:14 pm (time), on 2-19-2013 (date).

A. E. Hernandez

Print Name

[Signature]

Signature

WITNESS:

Stacy B. Alth

DATE: 2-19-2013

WITNESS:

D. H. -
D. H. Huagland

DATE: 2-19-2013

AE 4.

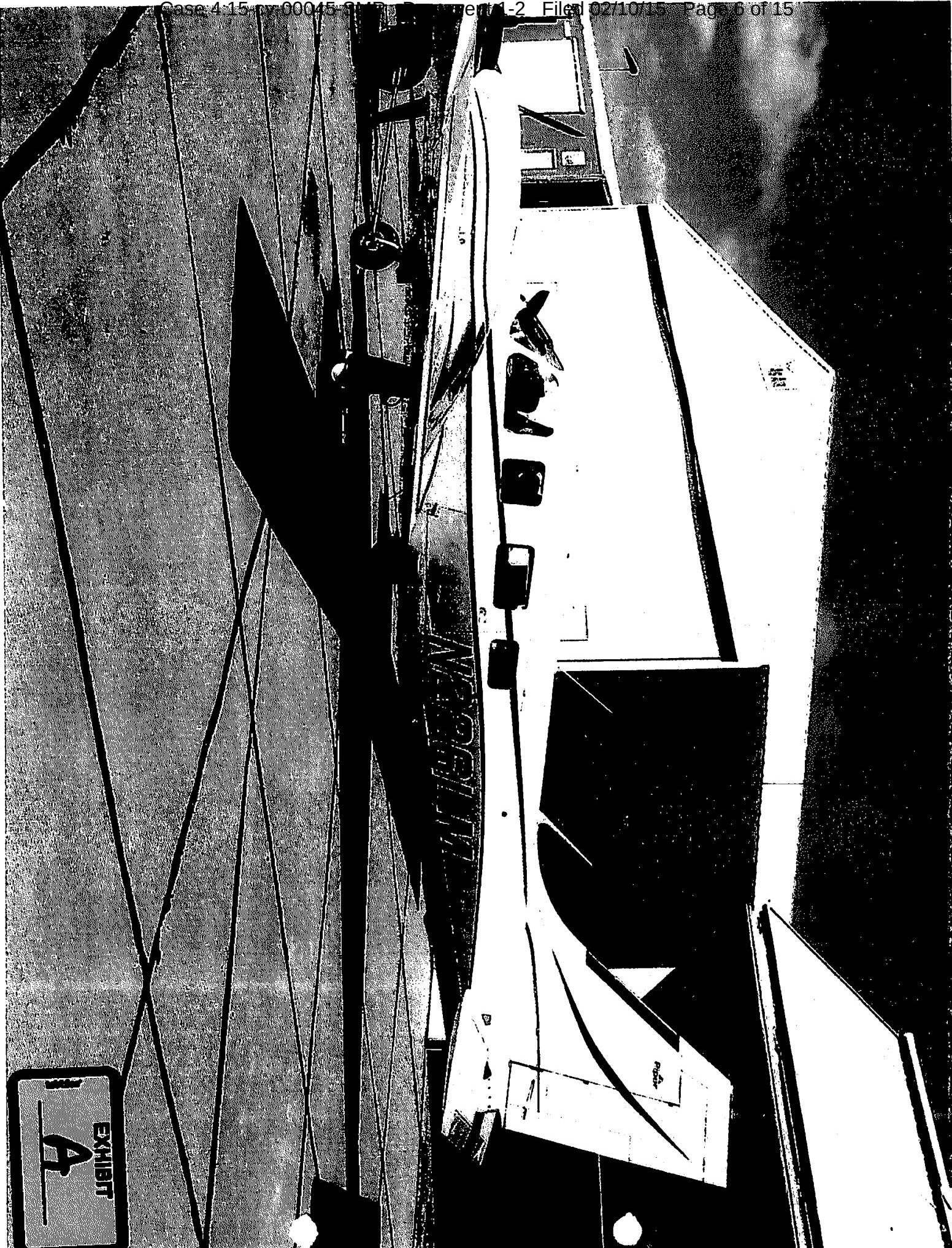


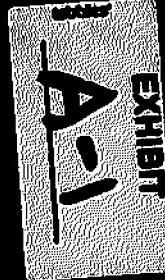
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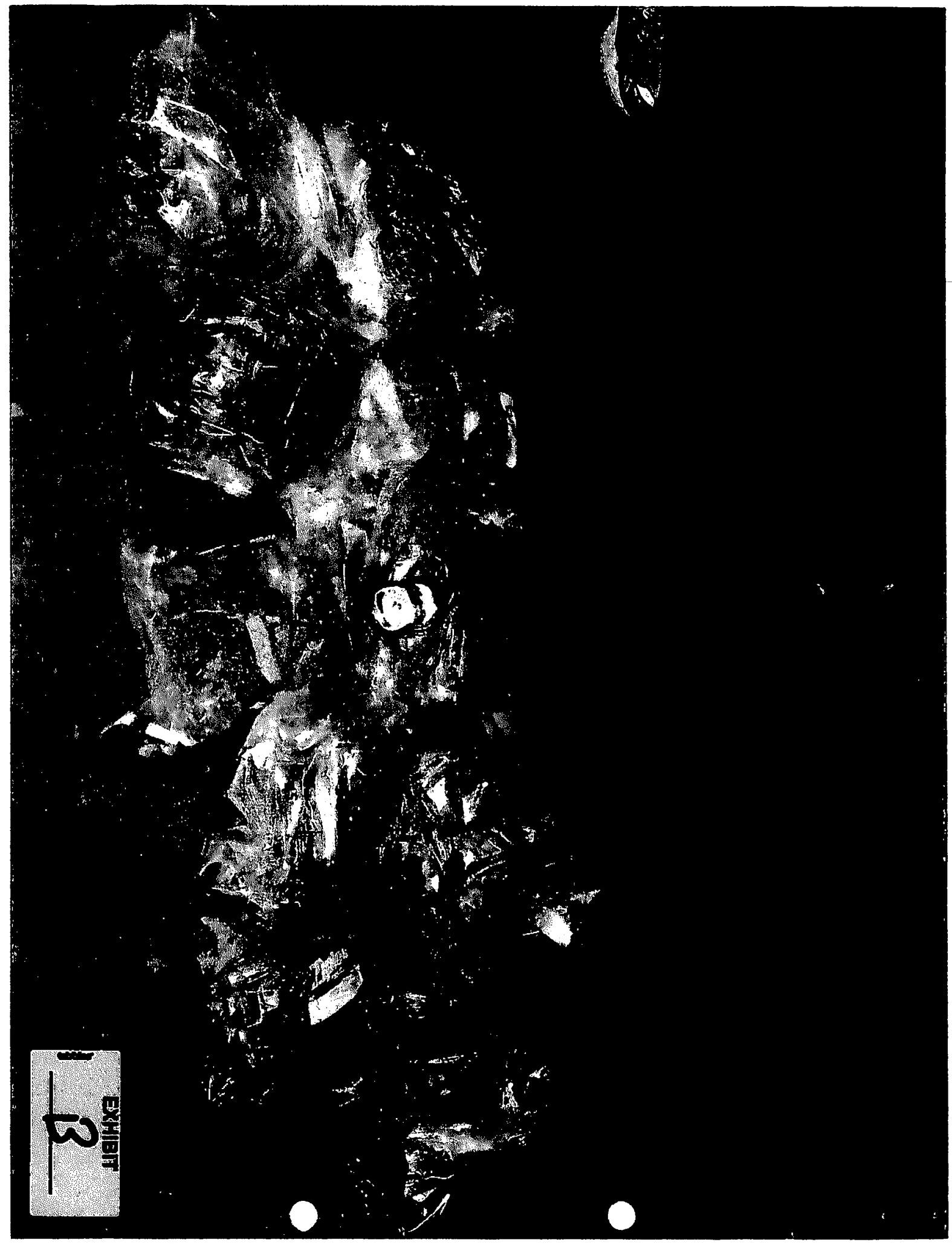
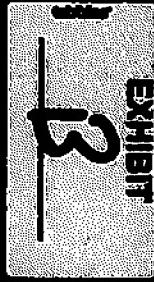
2881563001 888534072 00001 03/30/13 14 of 32

Detail for Nancy a Dellamonte: 203-994-6618**Voice, continued**

Date	Time	Number	Rate	Usage Type	Origination	Destination	Mins.	Airtime Charges	Long Dist/ Other Chgs	Total
2/17	10:57A	914-274-1678	Off-Peak	N&W	Enders NE	Wschstzn02 NY	3	—	—	—
2/17	11:32A	308-882-8630	Off-Peak	N&W	Enders NE	Imperial NE	2	—	—	—
2/17	11:35A	914-227-6440	Off-Peak	N&W	Enders NE	Wh Plains NY	1	—	—	—
2/17	11:43A	914-227-6440	Off-Peak	N&W	Enders NE	Incoming CL	1	—	—	—
2/17	11:50A	308-882-8630	Off-Peak	N&W	Enders NE	Imperial NE	1	—	—	—
2/17	6:57P	914-274-1678	Off-Peak	N&W	Livermore CA	Wschstzn02 NY	4	—	—	—
2/17	7:05P	510-557-2163	Off-Peak	N&W	Livermore CA	Incoming CL	2	—	—	—
2/17	7:35P	510-557-2163	Off-Peak	N&W	Livermore CA	Incoming CL	1	—	—	—
2/17	7:40P	203-501-7373	Off-Peak	N&W	Livermore CA	Danbury CT	1	—	—	—
2/17	7:59P	203-802-7710	Off-Peak	N&W	Livermore CA	Waterbury CT	10	—	—	—
2/17	8:29P	203-948-0878	Off-Peak	N&W	Livermore CA	Incoming CL	1	—	—	—
2/18	8:33A	203-775-5856	Peak	PlanAllow	Milpitas CA	Danbury CT	1	—	—	—
2/18	9:25A	914-274-1678	Peak	M2MAllow	Milpitas CA	Wschstzn02 NY	1	—	—	—
2/18	9:26A	201-694-4809	Peak	M2MAllow	Milpitas CA	Hackensack NJ	3	—	—	—
2/18	9:33A	914-274-1678	Peak	M2MAllow	Milpitas CA	Incoming CL	2	—	—	—
2/18	10:01A	914-227-6440	Peak	PlanAllow	Newark CA	Wh Plains NY	2	—	—	—
2/18	11:46A	203-948-1388	Peak	M2MAllow	Fremont CA	Incoming CL	1	—	—	—
2/18	2:41P	914-274-1678	Peak	M2MAllow	Fremont CA	Wschstzn02 NY	9	—	—	—
2/18	4:36P	510-557-2163	Peak	PlanAllow	Sunol CA	Frnk Main CA	3	—	—	—
2/18	5:53P	800-698-4952	Peak	PlanAllow	Fremont CA	Toll-Free CL	2	—	—	—
2/19	6:56A	914-274-1678	Peak	M2MAllow	Enders NE	Wschstzn02 NY	6	—	—	—
2/19	11:58A	203-834-0878	Peak	PlanAllow	Washington IA	Danbury CT	1	—	—	—
2/19	12:20P	203-834-9526	Peak	PlanAllow	Washington IA	Wilton CT	1	—	—	—
2/19	12:21P	203-834-9526	Peak	PlanAllow	Washington IA	Wilton CT	2	—	—	—
2/19	12:23P	914-274-1678	Peak	M2MAllow	Washington IA	Wschstzn02 NY	1	—	—	—
2/19	12:24P	914-274-1678	Peak	M2MAllow	Washington IA	Wschstzn02 NY	1	—	—	—
2/19	12:24P	914-274-1678	Peak	M2MAllow	Washington IA	Wschstzn02 NY	6	—	—	—
2/19	12:36P	203-834-9526	Peak	PlanAllow	Washington IA	Wilton CT	1	—	—	—
2/19	12:42P	914-274-1678	Peak	M2MAllow	Washington IA	Incoming CL	4	—	—	—
2/19	1:03P	914-274-1678	Peak	M2MAllow	Washington IA	Wschstzn02 NY	2	—	—	—
2/19	4:08P	914-274-1678	Peak	M2MAllow	Washington IA	Wschstzn02 NY	3	—	—	—
2/19	8:46P	914-274-1678	Peak	M2MAllow	Washington IA	Wschstzn02 NY	4	—	—	—







8th District Court of Appeals
Case 3:13-cr-00015-SMR-HCA Document 249 Filed 11/24/14 Page 1 of 4

Your Honors

USA vs. Michael G Efthimiatos

Case # 3-13-CR00015-002

I am writing this brief PRO SE to request permission from this Court to file a late Notice Of Appeal.

I was sentenced on June 19th 2014.

Original date the notice of appeal was due by July 3rd

Reasons not filed:

1. After my trial ended in February of 2014, I asked my attorney to file an appeal. On February 21st 2014 my attorney, John Keith Rigg, filed a motion for a new trial which was denied on March 7th 2014. Mr. Rigg lead me to believe that that motion was my appeal and my appeal options were over after the motion had been denied, and that I would just have to see what would happen at sentencing.

I was given a sentence of 24 months on June 19th 2014, and was immediately taken into custody by the US Marshalls. Afterwards I spoke to my parents who informed me that my attorney, Mr. Rigg, had informed them that he believed that I should not appeal my sentence because I would be released from incarceration by the time the Court of Appeals came back with a decision. That Monday 6/22/2014, I spoke to Mr. Rigg on the telephone and he explained to me the same thing that my parents had told me. He advised me not to appeal and as it was not worth it. I was still under the impression from my attorney that the appeal from my conviction had been decided by the motion on March 7th 2014. I later learned that information given to me by my counsel was false.

2. The reason for the delay in requesting permission from the this Court to file a late notice of appeal is due to the fact that I was in transit within the Bureau of Prisons from June 19th 2014 to September 17th 2014. I am now at FCI Orlisville New York Satellite Camp and have finally had the opportunity to do some legal research for this. I was mislead by my attorney who stated that my ability to contest the conviction ended in March 2014. I never had the intention of appealing only the sentence but the conviction itself. For these reasons I am asking the court to grant me permission for a late notice of appeal.

I believe that I have a meritorious appeal based on the insufficient evidence to sustain the conviction. The evidence at trial failed to show any conspiracy and consisted primarily of a video of me dropping off my brother at the airport and helping him carry his luggage. The Government failed to show I had any knowledge of the contents of his locked luggage. Travelling to California for personal reasons, and bringing my brother to the airport, does not even begin to establish a conspiracy. For these reasons I ask the court to grant me permission to file a late notice of appeal.

Thank you for your consideration and help

Sincerely Michael G. Efthimiatos



RECEIVED

NOV 24 2014

CLERK U.S. DISTRICT COURT
SOUTHERN DISTRICT OF IOWA

RECEIVED

NOV 17 2014

U.S. COURT OF APPEALS
EIGHTH CIRCUIT

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF IOWA

UNITED STATES OF AMERICA,)
Plaintiff,) CRIMINAL NO. 3:13-cr-15
vs.) MOTION TO WITHDRAW AS COUNSEL
ANGELO PETER EFTHIMIATOS,) DUE TO CONFLICT
Defendant.)

COMES NOW Diane Helphrey of the Federal Defender's Office and respectfully requests the court's permission to withdraw as attorney for defendant Angelo Peter Efthimiatos because of a conflict of interest. Counsel requests a CJA panel attorney be appointed to represent said defendant in this case.

Mr. Efthimiatos' trial is scheduled for the two week period beginning January 6, 2014, and his pretrial motion/change of plea proceeding deadline is December 16, 2013.

FEDERAL DEFENDER'S OFFICE
MidwestOne Bank Building
101 W. 2nd Street, Suite 401
Davenport, Iowa 52801-1815
TELEPHONE: (563) 322-8931
TELEFAX: (563) 383-0052
EMAIL: diane.helphrey@fd.org

By: /s/

Diane Helphrey
Assistant Federal Defender
ATTORNEY FOR DEFENDANT

cc: Angelo Peter Efthimiatos, Defendant
Clifford R. Cronk III, AUSA

CERTIFICATE OF SERVICE

I hereby certify that on November 12, 2013, I electronically filed this document with the Clerk of Court using the ECF system which will serve it on the appropriate parties.

/s/

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF IOWA

UNITED STATES OF AMERICA,)
vs.) CRIMINAL NO. 3:13-cr-15
Plaintiff,) MOTION TO WITHDRAW AS COUNSEL
vs.) DUE TO CONFLICT
ANGELO PETER EFTHIMIATOS,)
Defendant.)

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cc: Angelo Peter Efthimiatos, Defendant
Clifford R. Cronk III, AUSA

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/s/

**FEDERAL PUBLIC DEFENDER
NORTHERN AND SOUTHERN DISTRICTS OF IOWA**

**JAMES WILALEN
FEDERAL PUBLIC DEFENDER**

101 W. 2nd Street, Suite 401, Davenport, IA 52801
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Assistant Federal Defenders

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B. John Burns	
Joseph Herold	
Timothy Ross-Boon	
Cedar Rapids	Cedar Rapids
	Jill Johnston
	JoAnne Lilledahl
	Sioux City
	Robert Wichser
	Max Wilson
	Mike Smart
	Davenport
	Terence McAtee
	Diane Helpmey
	John Messina

Research & Writing Attorney
John Messina

November 12, 2013

Mr. Angelo P. Efthimiatos
c/o Scott County Jail
400 West 4th Street
Davenport, IA 52801

*RE: Case update/conflict of interest
Case No. 3:13-cr-15
Our File No. 13-V-0056*

Dear Mr. Efthimiatos:

I am writing to inform you that a conflict of interest has arisen in your case, preventing me from continuing my representation. If the interests of one client conflict with the interests of another, I am ethically required to withdraw as counsel. Unfortunately, I can not provide more detail than that due to my obligation of confidentiality to both clients.

You are still entitled to competent appointed counsel. Within a few days, the Clerk of Court will appoint a new lawyer to represent you from the panel of private attorneys qualified to practice under the Criminal Justice Act. That attorney will make contact with you. Please advise your new attorney that I will be glad to review your case with him or her and to share any information in my possession.

I am also going to summarize for you the current status of your case. When we last met, I explained a conditional plea to you. A conditional plea, means that you can enter a plea of guilty to the charge conditioned on the fact that the parties and the judge all agree you have reserved your right to appeal the pretrial order on your motions to suppress. Thus, you can preserve the appeal of your motion ruling as long as the parties are in agreement. Otherwise, your plea of guilty would render the pretrial issues moot, eliminating your right to appeal the motion decision.

November 12, 2013
Page 2

When I last spoke with you, you were still in the process of deciding between a trial and a plea. At this point, the prosecutor is not willing to offer much in the way of a plea agreement. He will only agree to a conditional plea if you admit to being in a conspiracy with your brother Michael and if you admit to the corresponding facts (facts the government believes are supported by concrete evidence). The factual basis would include stipulations such as Michael being in California with you as part of the conspiracy, him helping you load the bags of marijuana on the plane, and him accompanying you to Target for the purpose of purchasing the gas cards used in the transport.

This is what the government would require in order for Attorney Cronk to be willing to agree to a conditional plea. You could still enter a plea of guilty without making these stipulations, only admitting to the elements of the charge. The only facts you are required to admit to are those necessary to prove the charged conspiracy. A conspiracy can include unnamed individuals. This is called an open plea, meaning a plea to the charges without a plea agreement. However, with an open plea, Attorney Cronk is unwilling to agree to the conditional plea. All issues relevant to sentencing would be open to argument by both parties and your rights to appeal your motion would be lost.

The only other way to preserve your appeal rights relating to your pretrial motions, is to proceed to trial. However, by going to trial, you would forgo your offense level reduction based on acceptance of responsibility.

The government is unwilling to make any concessions relating to drug quantity. You have adamantly stated your conduct should produce a drug quantity well under 100 kilograms. The government's position is very far from your quantity calculation. Attorney Cronk would only be willing allow you to stipulate to 400 kilograms, and he would cap the quantity at 1000 kilograms. He continues to cite the 200 pounds planned in April, and your statement about the fields of marijuana. He is unwilling to consider an agreement to a lower amount.

Again, this does not prevent you from an open plea (a plea with no plea agreement). Also, Attorney Cronk would be willing to agree to a conditional plea without any agreement on drug quantity as long as the other above stated factual stipulations concerning Michael's participation were included.

Finally, Attorney Cronk continues to express an interest in your cooperation against Michael. He is still willing to extend a cooperation agreement to you, if you provided what he believes to be truthful and complete information about your involvement in the offense conduct as well as Michael's. He went on to explain that he would require very direct, honest information and that you would need to subject yourself to a polygraph concerning the information provided. For cooperation to be beneficial to you, you would have to convince the government you were being completely truthful and not leaving anything out.

Nothing you have said would suggest to me that you are willing to provide information against Michael. However, I need to make sure you clearly understand that information about Michael is of great interest to the government. Thus, this information has the potential of substantially helping you. Even if this is not what you choose to do, I need to make sure you understand all options you have.

November 12, 2013
Page 3

As I have explained many times, the government will not consider cooperation unless it is wholly inclusive. Meaning, to cooperate, you must openly tell law enforcement everything about your offense and any criminal conduct you are aware of. You can not choose to share information about a specific offense while deciding not to respond to other areas of inquiry. The government will not engage in piecemeal cooperation.

Thus, at this time you must decide how you wish to proceed. You can choose to go to trial, enter a conditional plea of guilty, cooperate with the government in an attempt to obtain a cooperation agreement or enter a plea of guilty with no plea agreement. You will have to decide which option best addresses the priorities you have relating to your case and personal circumstances. I wanted to provide a written overview to facilitate discussions with new counsel. I will provide new counsel with any information we have developed through our representation. I wish you the best of luck in your case. I am disappointed that I can not continue with your case. It has been a pleasure representing you.

Sincerely,


Diane Helphrey
Assistant Federal Public Defender

Enclosure: Motion to Withdraw as Counsel Due to Conflict

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